

Application No. : 10/782,680
Filed : February 18, 2004

REMARKS

Claims 12-24 and 34-54 were pending in the application. By this paper, Applicant has amended Claims 12, 21, 34, 37, 46 and 50, and added new Claims 55-60. Accordingly, Claims 12-24 and 34-60 are presented for examination herein.

§102 Rejections

Per page 2 of the Office Action, Claims 12-14, 17-21, 34-39, 42-46, and 50-54 stand rejected under 35 U.S.C. § 102(b) as being anticipated by “The Use of Dynamically Reconfigurable Protocol Stacks for Streaming Multimedia to Mobile Devices” by Curran, et al. (2002 IEEE; hereinafter referred to as “Curran”). In response thereto Applicant provides the following remarks.

Claim 12 – By this paper, Applicant has amended Claim 12 to recite enabling a user to control functions of the playback of the content that are specific to the protocol. Support for this amendment may be found at, *inter alia*, page 22, lines 11-15 of Applicant’s specification as filed.

Applicant notes that “*A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.*” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). See MPEP 2131.

Applicant submits that Curran does not expressly or inherently disclose enabling a user to control functions of the playback of content that are specific to the protocol, as now recited in Claim 12. Rather, Curran merely discloses constructing optimized protocol stacks for each of the media (e.g., audio, text and video), so that the media may be provided without experiencing packet loss and/or congestion (see e.g., page 949, second paragraph). In other words, Curran discloses controlling packet loss and/or congestion. In Curran, it is the Chameleon middleware, and not the user, which controls packet loss and/or congestion. Thus, Curran does not disclose enabling a user to control functions of the playback of content which are specific to the protocol.

Accordingly, since Curran does not expressly or inherently describe all of the limitations of Claim 12 as amended, the claim is respectfully patentably distinguishable over Curran and not anticipated thereby.

5 **Claim 21** – By this paper, Applicant has amended Claim 21 to recite a third software component adapted to cause at least one message corresponding to at least one function specific to the protocol to be sent to the entity of the network. Support for this amendment may be found at, *inter alia*, page 22, lines 11-15 of Applicant's specification as filed.

10 Applicant respectfully submits that Curran does not expressly or inherently disclose a third software component adapted to cause at least one message corresponding to at least one function specific to the protocol to be sent to the entity of the network. Rather, Curran merely discloses fragmenting an application and broadcasting it over channels to be subscribed to at the CPE's choice (see e.g., page 948 of Curran, last 7 lines). In other words, Curran discloses sending a fragmented application from the network entity having the Chameleon middleware
15 running thereon to one or more CPE. Curran does not disclose a message corresponding to at least one function specific to the protocol being sent to the network entity from the CPE.

Therefore, Applicant respectfully submits that Claim 21 as amended distinguishes over Curran, and thus is not anticipated thereby.

20 **Claim 34** – By this paper, Applicant has amended Claim 34 to recite communication between the head-end entity and the CPE comprising: establishing a communications session between said head-end and said CPE, specifying to said CPE a channel on which on-demand content may be accessed by said CPE, and sending or receiving at least one message regarding functional modes. Support for this amendment may be found at, *inter alia*, page 21, line 30 –
25 page 22, line 4.

Applicant submits that Curran does not expressly or inherently disclose the aforementioned limitations. Per Curran FIG. 2, the Chameleon middleware communicates between the home agent and a multimedia server. However, Curran does not disclose the Chameleon adapted to specify to the CPE the channel on which on-demand content may be

accessed. Nor does Curran disclose the Chameleon being adapted to send and/or receive messages regarding functional modes.

Rather, the Chameleon of Curran merely generates optimized protocol stacks (see e.g., page 949, second paragraph), and fragments an application for broadcast over various channels (see e.g., page 948, paragraph 4 – page 949, paragraph 1). Even if one were to assume, *arguendo*, that the broadcasting in Curran comprises sending messages, Applicant maintains that the fragmented applications do not comprise messages regarding protocol-specific functional modes.

Therefore, Applicant respectfully submits that Claim 34 as amended is not anticipated by Curran.

Claim 37 – By this paper, Applicant has amended Claim 37 to recite a third module for controlling at least one of the act of communicating and the act of processing, the act of controlling enabling the content to be presented according to one or more requested functional modes available to the network-specific protocol. Support for this amendment may be found at, *inter alia*, page 21, line 30 – page 22, line 15 of Applicant's specification as filed.

Applicant respectfully submits that Curran does not expressly or inherently disclose enabling the content to be presented according to one or more requested functional modes available to the network-specific protocol. Curran merely discloses constructing optimized protocol stacks for each of the media (e.g., audio, text and video), so that the media may be provided without experiencing packet loss and/or congestion (see e.g., page 949, second paragraph). When the protocol stacks are constructed, they are prioritized and delivered to a user device. Curran does not disclose presenting the media according to a requested functional mode available to a network-specific protocol.

Therefore, Applicant submits that Claim 37 as amended herein is patentably distinguishable over Curran, and is not anticipated thereby.

Claim 46 – By this paper, Applicant has amended Claim 46 to recite a software application adapted to enable a user of the CPE to control, via a user interface, playback of the

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content according to the network-specific protocol. Support for this amendment may be found at, *inter alia*, page 22, lines 11-15 of Applicant's specification as filed.

Applicant respectfully submits that Curran does not expressly or inherently disclose a software application adapted to enable a user of the CPE to control, via a user interface, playback of the content according to the network-specific protocol. Curran merely discloses constructing optimized protocol stacks for each of the media (e.g., audio, text and video), so that the media may be provided without experiencing packet loss and/or congestion (see e.g., page 949, second paragraph). In other words, Curran merely addresses a mechanism for the provision of the media protocol stacks; and does not describe control, via a user interface, of playback of the content according to a network-specified protocol.

Accordingly, since Curran does not expressly or inherently describe all of the limitations of Claim 46, the claim is respectfully patentably distinguishable over Curran and not anticipated thereby.

Claim 50 – Applicant respectfully traverses the Examiner's §102 rejection of Claim 50 as being anticipated by Curran.

Applicant notes that the Examiner has failed to indicate in the Office Action that Curran describes developing at least one path to the media interface components, the at least one path and the media interface components cooperating to provide network specific on-demand services, as recited in Claim 50.

Applicant submits that Curran does not expressly or inherently disclose the aforementioned limitation. Rather, Curran merely describes an application (Chameleon) adapted to fragment, prioritize and broadcast an application. Effective transmission of protocol stacks is also given in Curran. Thus, Curran does not describe at least one path and/or the application cooperating with the at least one path to provide network specific on-demand services.

However, in order to more clearly distinguish Claim 50 over the prior art, Applicant has herein amended Claim 50 to recite the path to the media interface components being accessible only to authorized entities. Support for this amendment may be found at, *inter alia*, page 25, lines 9-18 of Applicant's specification as filed.

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Applicant submits that Curran does not expressly or inherently disclose the path to the media interface components being accessible only to authorized entities.

Therefore, Applicant respectfully submits that Claim 50 as amended distinguishes over Curran and thus is not anticipated thereby.

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§103 Rejections

1. Per page 5 of the Office Action, Claims 15-16 and 40-41 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Curran in view of Patki, et al. (U.S. Patent No. 6,944,185; hereinafter referred to as "Patki").

10 Applicant respectfully submits that the Examiner's rejections of dependent Claims 15-16 and 40-41 are rendered moot, given the arguments and amendments discussed above with respect to independent Claims 12 and 37, respectively.

2. Per page 6 of the Office Action, Claims 22-24 and 47-49 stand rejected under 35 U.S.C §103(a) as being unpatentable over Curran in view of Logston, et al. (U.S. Patent No. 6,941,341; hereinafter referred to as "Logston").

15 Applicant respectfully submits that the Examiner's rejections of dependent Claims 22-24 and 47-49 are rendered moot, given the arguments and amendments discussed above with respect to independent Claims 21 and 46, respectively.

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New Claims

By this paper, Applicant has added new dependent Claims 55-60. Support for new dependent Claims 55-56 may be found at, *inter alia*, page 22, lines 11-15 of Applicant's specification as filed. Support for new dependent Claims 57-60 may be found at, *inter alia*, page 21, line 30 – page 22, line 15 of Applicant's specification as filed.

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Applicant respectfully submits that no new material has been added by way of these new claims, and that each of new Claims 55-60 distinguishes over the prior art cited by the Examiner (including Curran) and is in condition for allowance.

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Other Remarks

Applicant hereby specifically reserves all rights of appeal (including those under the Pre-Appeal Brief Pilot Program), as well as the right to prosecute claims of different scope in another continuation or divisional application.

Applicant notes that any claim cancellations or additions made herein are made solely for the purposes of more clearly and particularly describing and claiming the invention, and not for purposes of overcoming art or for patentability. The Examiner should infer no (i) adoption of a position with respect to patentability, (ii) change in the Applicant's position with respect to any claim or subject matter of the invention, or (iii) acquiescence in any way to any position taken by the Examiner, based on such cancellations or additions.


Furthermore, any remarks made with respect to a given claim or claims are limited solely to such claim or claims.

If the Examiner has any questions or comments which may be resolved over the telephone, he is requested to call the undersigned at (858) 675-1670.

Respectfully submitted,

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